

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 02-60176-CR-WPD

United States of America,

Plaintiff,

v.

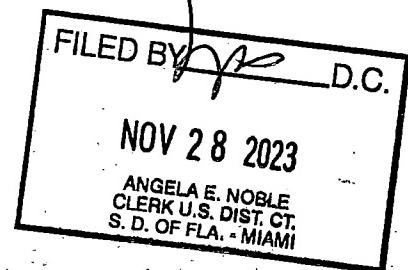
Rafael Daniel De la Cruz Tineavez.

Defendant

**MOTION FOR EXTENSION OF TIME  
TO FILE THE NOTICE OF APPEAL**

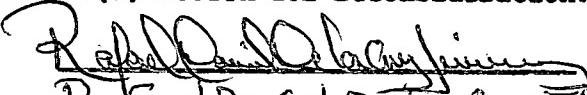
Comes, Now, Rafael Daniel De la Cruz Tineavez, pursuant to Federal Rules of Appellate Procedure rule 4(b)(4) does hereby moves this court for an extension of time to file his notice of appeal from this Court's November 2, 2023, Order denying his 3582(c)(2) proceeding based upon the USSG 821 Amendment and in support of this said Motion states as follows:

1. On November 2, 2023, this court issued its order denying defendant 3582(c)(2) Relief, however, defendant did not receive this court's order via U.S. Mail until November 16, 2023, in the general correspondence.
2. Although defendant did mail his Notice of Appeal on November 17, 2023, according to certified mailing receipts, notwithstanding the fact he actually placed that Notice of Appeal into the prison mailbox on November 16, 2023, defendant believes that under the Computing and Extending Time Rule 26 of FRAP his Notice of Appeal was in fact timely under Rule 26(c) Additional Time after Service whenever "a party is required by or permitted to act within a prescribed period, "3 calendar days are added to the prescribed period..." Ergo, and as such where defendant did timely place his Notice of appeal in the prison mailing system within 14 days of receipt by mail, but



due to delay caused by mailing, not based on any act or omission on his part, but out an abundance of caution moves this court for an extension of time in which to file his notice of appeal and rule 35(a) Motion for reconsideration.

Respectfully Submitted, by:

  
Rafael Daniel De Lea Cruz Jimenez  
FCC-Oakdale-Low-I  
P.O. Box 5000  
Oakdale, LA 71463-5000

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion has been sent via U.S. Mail on 11-20-2023, to the U.S. Attorney's Office at the address listed on the docket.

By: 

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CLERK OF THE COURT - ROOM 8N09  
400 NORTH MIAMI AVENUE  
MIAMI, FLORIDA 33128-7716

56269-004

De La Cruz Rafael Daniel  
Federal Correctional Inst  
P.O Box 5000  
Oakdale, LA 71463  
United States

SHREVEPORT LA

22 NOV 2023 PM 3



\*LEGAL MAIL/SPECIAL MAIL\*

Date out: NOVEMBER 20, 2023

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CLERK OF THE COURT ROOM 8ND9  
400 NORTH MIAMI AVENUE  
MIAMI, FLORIDA 33128-7716

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